

Mediation Trainers Focus on Ethics

Charles Pou, Jr., Mediator Quality
Assurance Consultant to MACRO

The Mediator Ethics Task Group, part of MACRO's Maryland Program for Mediator Excellence (MPME), offered a workshop Nov. 13 on innovative design and delivery of mediation ethics training to a group of Maryland mediation trainers. The day-long session was led by Mary Thompson from Austin, TX, an expert on basic and advanced mediation ethics education,

The workshop employed presentations and exercises to help identify engaging, effective teaching activities for mediation ethics. In the final segment of the session, the 20 attendees discussed these activities'

implications for Maryland trainers and MPME members, as well as the best way to implement MPME ethics education components.

The workshop focused on four "ethical competencies" for mediators: self awareness, knowledge of professional standards, analysis and decision-making, and performing in the moment. It further advanced the MPME Ethics Committee's initiative to educate new mediators, raise practitioner awareness, and provide "real time" support for mediators facing ethical dilemmas.

[cont. on p. 10](#)

Maryland Mediators Convention

The second Maryland Mediators Convention was held at the University of Maryland Conference Center on December 3, 2004. More than 350 mediators attended the convention which began with a video of some actual "man/woman on the street interviews" regarding mediation.

Four sessions were held throughout the day with eight concurrent seminars in each session, concluding at five with a reception. One attendee wrote, "This single event provided me with all the information I needed to make Maryland my 'place' for doing mediation." See more photos, p. 13.



L-R: Carl Schneider, Doug Brookman, Rachel Wohl, Craig Distelhorst, and Trish Miller

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Rachel's Notes

A handful of mediators have truly been pioneers in the field of conflict resolution in Maryland. One such pioneer is retiring from her mediation job after a long and fulfilling career, and I want to take this opportunity to pay her a well-deserved tribute. Her name is Nancy Hirshman, and she has devoted the past 21 years to helping people in conflict, and to advancing high quality dispute resolution across the state.

I first met Nancy in 1998, when Chief Judge Bell appointed her to be a member of the Maryland ADR Commission. She quickly became one of the people we count on for assistance and advice. She is a patient teacher for those who are new to the field.

Born in Augusta, Ga.—a Southern Belle at heart—Nancy was an “Army brat,” who attended 13 different grade schools around the world. Her family settled in Maryland in the late 1950s and stayed. Nancy held a variety of jobs, and eventually became manager of a legal office. A mutual friend introduced Nancy to Mel Hirshman, an attorney in private practice. The matchmaking friend said he knew that Mel and Nancy would be “right for each other,” and he proved to be correct. Nancy and Mel have been married for 34 years, and they have four children and six grandchildren.

When Mel was appointed Bar Counsel for the Attorney Grievance Commission—a position feared and revered by many Maryland lawyers—Nancy enrolled in the Paralegal Program at the Anne Arundel Community College, a program for which she is currently an advisory board member. While looking for a job, she read a news article saying that Anne Arundel County's State's Attorney Warren Duckett wanted to start a Neighborhood Arbitration Center to help people resolve their problems. She thought that sounded interesting, and after a three-hour conversation with Duckett, was hired to run the center. Duckett told her she had six weeks to get the program up and running.

Nancy spent those six weeks learning everything she could about conflict resolution. She says that many people were “very kind” to her, especially Judge Roslyn Bell, who coached and supported her, as well as people involved in the ABA's Dispute Resolution Standing Committee, the American Arbitration Association and the Maryland Department of Juvenile Services. In 1983, after she learned the difference between arbitration and mediation, Nancy opened the Neighborhood Mediation Center, the first of its kind in Maryland.

As the center was being created, Duckett arranged a breakfast meeting at Denny's on Route 50 for Nancy and the judges on the District Court bench in Anne Arundel County. Nancy was too nervous to eat

[cont. on p. 12](#)



Rachel Wohl,
Executive Director

Embracing the Core Values of Our Field to Enhance Our Profession



courtesy of Marvin Johnson

As the use of mediation continues to expand in Maryland and throughout the United States, there is an increasing need to acknowledge the history of mediation and the practitioners who preceded us. Each year thousands of individuals “discover” that mediation is a satisfactory means of resolving disputes.

Unbeknownst to many of us, many individuals have been mediating disputes for well over 30 years. The Federal Mediation and Conciliation Service and the Community Relations Service recently celebrated their 55th and 40th anniversaries, respectively; the Rochester, N.Y., Center for Dispute Settlement, the third oldest community dispute resolution center in the U.S., and the Federal Service Impasses Panel will soon celebrate their 32nd and 35th anniversaries.

These agencies, their mediators and other dispute resolution specialists have not been afforded the appropriate recognition by those of us who have recently come to practice in the alternative dispute resolution (ADR) field over the past 15 years. Moreover, some of the dispute resolution topics, techniques, and applications that some of us have recently “discovered” have been discussed and utilized in years past by those who came before us.

The fact that many of us have recently “discovered” mediation seems to militate against a unified sense of community in the field. Our “discovery” seems to have generated competition for cases, clients, contracts, attendees, and members, while fostering exclusionary actions that involve, among other things, process, style, qualifications, neutrality, professionalism, volunteerism, certification, and the unauthorized practice of law.

Marvin E. Johnson,
Exec. Director, Center for ADR

The word “discovery” has at least two basic definitions. One definition is “to obtain knowledge through observation, search or study.” Another definition is “to be the first to find, learn, or observe.” It seems as though many of us who have come into the field within the last 10 to 15 years have “discovered” mediation within the context of the latter definition. In this regard, our view is narrow and confined by the particular portal through which we entered the field. Each of us thinks that our portal is the prescribed or the only entry into the field and it therefore contains the predominate view of the field.

This framework has stimulated individuals and organizations to engage in overt and covert power moves that marginalize and exclude people in an effort to stake out turf in the newly “discovered” field of ADR. The obvious examples include the rush to legislate, regulate, and credential the field without all points of view represented at the table and without those who may be most affected in the room. As dispute resolution experts, we should expose and stop such behavior. Because we have not, the targets of the power moves are skeptical of those who are doing the targeting and unwilling to collaborate with them.

Our challenge is to reframe our thinking, our portals of entry and our relationships so that we enter and work in the field within the context of its core values and the first definition of “discovery.” This approach provides a broader and deeper perspective of our work and an opportunity to recognize and appreciate the history of the field including the leaders and elders who came before us, as well as those who are currently doing similar work in different venues. Such a paradigm shift is not unlike a mediator being aware of, respecting, and validating all of the stakeholders associated with a dispute and their related history in order to create a space for inclusion, collaboration, innovation, and resolution.



Dorchester County's Criminal Mediation Program



courtesy of Rob Ketchum

Rob Ketchum, Mediator

In the summer of 2003, Michelle Barnes, State's Attorney for Dorchester County applied to MACRO for a grant to start a criminal mediation program. MACRO approved the grant in July and the State's Attorney's Office subsequently hired me to develop and implement the program.

I worked with Ms. Barnes and others to develop a process for referring cases, obtaining mediation space, working with the District Court Judge on procedures, and developing forms for the program. In an effort to build support and understanding of the mediation project, a brochure was developed and a press release prepared. This received broad distribution in the media and was effective in acquainting people in the community about the program. The mediation program has now been up and running since January, 2004.

First, the Deputy State's Attorney screens the cases for mediation, and meets with the parties during the preliminary investigation phase. If deemed appropriate, the cases are then scheduled for mediation approximately two weeks from that date, and the parties sign a statement that they agree to attend the mediation session. The list of criminal offenses includes matters such as harassment, assault in the second degree, trespass, threatening behavior and misuse of property. Often the parties know each other, or know someone who knows the other party.

After I am assigned the case from the Deputy State's Attorney, I do the paperwork, case management and any rescheduling and perform the mediation. The State's Attorney's personnel are involved in handling inquiries, processing the initial cases to help identify candidates for mediation, and maintaining the regular records required by the State's Attorney's office and the Courts.

A typical case might involve two neighbors, Brown and Smith, who were in high school together sixteen years ago. Neighbor Brown filed a complaint against Neighbor Smith

for trespassing when Smith's truck knocked over some piling logs on the property line. Brown was also upset that the Smith trucks often block the alley and that his visitors were routinely "cussed at." Neighbor Smith countered that he wasn't crossing any property lines, that he was being harassed by Brown and that he had a right to get his trucks in and out of the alley. Mediation provided a way to deescalate the situation and allowed the two to talk about parking arrangements, the location of the property line, and how to communicate with each other as any problems occur in the future.

We are collecting data and we anticipate that roughly 100 cases will have been mediated by the end of the first year. During the course of the program, almost all the cases referred to mediation have been resolved. In addition to criminal cases, several juvenile cases that Juvenile Services felt would be appropriate have been successfully mediated.

The goal for 2005 is to increase the number of cases mediated and to begin to recruit and train volunteer mediators to be a part of the program. Additionally, it is hoped that mediation will begin to be offered as part of the granting of Peace Orders. This option is contained in the statute 3-1505 which provides for the petitioner to request that the respondent be directed to go to mediation at the time the peace order is granted.

From the outset, the staff of the Dorchester County State's Attorney's office has enthusiastically supported the program. Nancy Hirshman, the mediator in the 20-year-old program at the Anne Arundel State's Attorney's Office, and the personnel working with the Montgomery County State's Attorney's office provided counsel, suggestions and valuable advice as the project got underway. It is our hope that the Dorchester County model will be helpful to other counties wishing to start such a mediation project.



courtesy of CMP

Tim Dowd and Kristen John,
Student Mediators,
Salisbury University

MACROSCOPE

Campus Mediation Creates a Culture of Conflict Resolution

Over the past 15 years, hundreds of American colleges and universities have seen explosive growth of campus-based mediation programs. At Salisbury University on the Eastern Shore, the Campus Mediation Program (CMP) began in 2001 via support from the Maryland Mediation and Conflict Resolution Office (MACRO).

Housed in the Center for Conflict Resolution (CCR), the CMP is a student-run program which has worked to resolve disputes with more than 300 university members in more than 12 campus offices. The CMP has trained more than 50 students to be peer mediators who co-mediate student-to-student disputes on and off campus. The CMP and the Center have also trained about a dozen faculty and staff volunteers who mediate non-student, campus-based disputes.

The Campus Mediation Program is one component of our larger student-directed "teaching hospital" philosophy where students work side by side with faculty and professional practitioners to learn the craft of effective conflict intervention. Our main objective is to empower students to resolve their conflicts constructively and creatively. The

CMP works toward this goal by conducting conflict resolution trainings, workshops, and presentations that are specifically geared toward the student body's needs.

As a result, various student organizations, clubs, and other groups have incorporated conflict resolution principles into their policies, by-laws and rules of conduct. These developments are essential in meeting two of our larger goals: they create a climate and culture that stimulates

constructive communication and problem-solving, and they directly reinforce, through our conduct and demeanor, the values underlying Salisbury University's motto to "learn, live, and lead."

CMP offers excellent opportunities to gain meaningful hands-on experience. Its convenient location within CCR allows students majoring in Conflict Analysis and Dispute Resolution (CADR) and members of the Conflict Resolution Club to engage in real life peer mediation activities. Those of us who are leaders at the CMP also learn by teaching our younger colleagues how to operate the program, conduct workshops, and mediate cases. In this way, we pass on skills and knowledge to the next generation of students who will run the program.

We believe a university is only as good as what it gives back to the local community. In this respect the CMP and CCR work together to address the demand for conflict resolution services in the surrounding community as well as improve relationships between students and Salisbury's residents.



Issue #5

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upcoming

**"Bringing Mindfulness to the Table:
Through the Mediators'
Looking Glass"**

with Len Riskin and Kenneth Cloke
Unitarian Universalist Church,
Annapolis, Maryland
March 4, 2005; 9 to 5.
[See story on p. 13 for details.]

Dependency Mediation in CINA

For a child who has been removed from a home and placed in a shelter, even a month can be a long, uncertain time. For a parent, who may be in critical need of assistance or treatment and whose child or children have been removed, time is also of the essence. Fragile relationships mend poorly, if at all, when separation and uncertainty are extended. The short time frames in which the law requires the adjudication of Child in Need of Assistance (CINA) cases may seem arbitrary and rigid until we focus on the child who is otherwise kept waiting.

Benefits to Children

In managing CINA cases in the Circuit Court for Montgomery County, we try never to forget that every case file represents not just a case, but a child—and a child's family. This is what compels our effort to resolve cases as promptly as possible, to avoid all unnecessary delay, and to give each child the best chance for what is in his or her best interests. Mediating CINA cases before trial gives everyone the opportunity to be heard and to reach a collaborative agreement that accomplishes these goals. By using mediation, children consistently achieve a more stable status sooner. In those cases, the parties reach agreement on the day of the mediation from the pre-trial hearing and come back to put a consent agreement on the record or, if no agreement is reached at the time of the pre-trial hearing, they confirm trial date/times. That happens in 55 to 60% of all CINA cases.

In reaching mediated agreements and sometimes in other consent agreements, parents take responsibility for their behavior and receive assistance, treatment, and support to improve parenting skills just as quickly, in a time frame in which they are motivated to change.



With the help of grants obtained by the Montgomery County Collaboration Council for Children, Youth, and their Families from MACRO and from the Office of Crime Control and Prevention, the Circuit Court for Montgomery County was able to begin the Juvenile Dependency Mediation program during Fiscal Year 2003. This project provides court-ordered mediation of CINA cases prior to adjudication. The framework for the program was developed on a collaborative basis over a two-year period by an ad hoc committee of stakeholders working in conjunction with the Juvenile Court.

In its first year of operation, the Juvenile Dependency Mediation program became an integral part of the Juvenile Court in Montgomery County. The program has also become a model for other jurisdictions in Maryland seeking to change the all too often destructive dynamic associated with the traditional adversarial approach. The collaborative planning process also helped to make the hostile legal culture that existed among lawyers representing various parties more congenial. While different roles are acknowledged and respected, compromise and collaboration in the resolution of cases have become the norm. Mediation is mandated by court order unless criminal charges are pending or imminent. In the past, a large percentage of cases had resulted in consent agreements, but only after months had passed. Delays of five to six months or more to disposition were not uncommon.

In FY 2004, 33.8% of all CINA cases filed went to mediation. The total percentage of cases reaching a full consent agreement or resolution by the pre-trial dates consistently made up between 55% and 60% of the cases. While additional partial agreements and full consent agreements were being reached by the adjudicatory hearing dates, cases that were not mediated were almost twice as likely



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Cases Prior to Adjudication

to have a contested hearing (25% vs. 12.9%) as those that were mediated.

Court-ordered mediation at the pre-trial stage of CINA is a labor-intensive effort. Case managers screen every CINA petition, contacting counsel for parties to identify potential or pending criminal charges, identify and make arrangements for special needs, and determine whether agreement has already been reached. A schedule of mediators available for pre-trial hearing dates is created and constantly fine-tuned as the pre-trial hearing dates approach. Gathering and responding to feedback from stakeholders and mediators to refine the program and address issues is an ongoing process, as is maintaining a sufficient pool of trained mediators.

Example

A CINA case ordered to mediation might include the following issues: a mother, who was in foster care as a child due to physical abuse, suffers from a mental illness for which she does not consistently take her medication. When she is off her medications, her behavior becomes erratic. Her older two children, ages 6 and 7, do not regularly attend school. Her youngest child, a toddler, is reported by neighbors as playing in the apart-

ment hallway without supervision, hungry and in dirty diapers. The children are placed in shelter on an emergency basis during one of these episodes, after being discovered alone at home with no food in the house. The father of the older two children has not seen them in over two years and allegedly is an alcoholic. The toddler's father died in an accident before she was born. The mother is estranged from her own mother but has a paternal aunt who has cared for the children in the past.

About two or three weeks after the shelter hearing, the case is ordered to mediation. At the table are the mother, who is back on her medication and is angry and frightened; her attorney; the children's attorney who has decided that being present would not be in their best interest; the father of the two older children; his attorney; the social worker; and the Assistant County Attorney. The children's great-aunt waits outside in case she is needed.

Two mediators have been teamed for this mediation. One is a mental health professional, while the other is a lawyer. Mediators are paid

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Bringing People Together

Conflict Resolution in Maryland: 2004 in Review

MACRO has completed its annual report for 2004, a more comprehensive annual report than has been done before. It features MACRO-supported projects which were funded in the six initiative areas: Circuit Court; District Court; Community Mediation; Schools and Universities; Criminal and Juvenile Justice; and State and Local Government. It also features the conferences MACRO sponsored throughout the year and the four statewide projects—the Maryland Program for Mediator Excellence, the Self Assessment System for Court ADR Programs, the Business Benchmarking Study and the Public Awareness Initiative.

In his introductory letter to the report, Judge Bell says, "Through MACRO's work, the Judiciary supports advancement of mediation and other dispute resolution programs to meet local needs and to provide more options for people in conflict. This report describes our efforts to increase the use of alternative dispute resolution statewide and highlights our fiscal year 2004 accomplishments." If you would like to receive a copy of this annual report, call MACRO at 410-841-2260.

Letters to the Editor

Note: both letters refer to Brian Polkinghorn's editorial "Defining the Super Mediator" in the summer issue of *Macroscopic* available for download at www.courts.state.md.us/macro/index.html.

Dear Editor: As our field has evolved, several different theories and styles have emerged. Brian Polkinghorn deserves our collective appreciation for identifying what is truly at the core of skilled mediation: applying the talents and tools that fit the process on that particular day with all its variables.

An outstanding coach or teacher learns to tailor his/her talents to the individual—to be aware of how best to motivate or explain. I share Brian's view that the constant learning and application of skills encompasses many theories and draws on many approaches. Many thanks to him for sharing his thoughts. It is a valuable contribution.

Rob Ketcham, Mediator, Dorchester County State's Attorney's Office



Dear Editor: I bristled when I read Brian Polkinghorn's guest editorial "Defining the Super Mediator: A Different Approach" in the summer issue of *Macroscopic*. The author does not define a different approach or propose a new model. He only uses a label. While he proclaims that knowledge of research is the distinguishing factor that sets certain experienced mediators apart, his suggestion is not based on empirical research but an informal survey. The guest editorial does the field a disservice by raising this meaningless distinction.

Rather, I believe there should be more dialogue on identifying and developing personal qualities that influence our practice and the mediation process. This is the third and most challenging stage in a mediator's development and the focus of the lead chapter in the book "Bringing Peace into the Room." The authors, Daniel Bowling and David Hoffman, draw analogies from recent developments in psychology and physical sciences and suggest critical characteristics and ways of developing awareness of how who we are affects our work. This is the debate which should be on the front burner.

Ellen F. Kandell, Principal, Alternative Resolutions



We Need Your Help

In 2003, MACRO, with the assistance of Daniel Miller, compiled the first-ever *Consumers' Guide to Mediation Services In Maryland*. Now MACRO is gearing up for a revised and updated second edition that promises to be more expansive and informative than the first edition.

The guide, which identifies mediation programs statewide, has been distributed to hundreds of people as a resource for court, community, government, and other mediation programs. This useful booklet lists mediation programs by county and also has a section on programs that are available statewide. Each listing includes a brief description about the program, a contact name, address, telephone number, and, when available, e-mail and web addresses. In

addition, the guide includes tips on finding a mediator, information about the mediation process, and lists the mediators' Standards of Practice for circuit court mediation programs.

In our effort to keep the guide as complete and up-to-date as possible, we are asking for your help in identifying programs we may have inadvertently omitted in our first edition, or new programs that have been developed since the first edition. Please visit www.courts.state.md.us/macro and click on the link to the Consumers' Guide.

If you believe we have missed a program in your county or in the state, or if there are updated program descriptions or contact information, please contact Jonathan Rosenthal at 410-841-2260 or jonathan.rosenthal@courts.state.md.us.

MACRO Releases Five-Year Plan; A Bridge Towards the Future

It has been five years since the ADR Commission released its practical action plan, "Join the Resolution." Now that many of the goals outlined in that plan have been achieved, MACRO took time last year to reflect on progress made and to identify new priorities in a strategic revisioning process.

Using Sociocratic decision-making, the staff developed a draft plan and presented it to the Advisory Board where additional suggestions were made. Based on the guidance from the Advisory Board members, MACRO has three top priorities: (a) quality assurance (b) public awareness, and (c) evaluation.

Quality Assurance

MACRO has created a Mediator Excellence Council to help guide the Maryland Program for Mediator Excellence (MPME). Much broader than a certification process, the MPME focuses on supporting continuing improvement by all Maryland mediators, both newly trained and very experienced. Participating mediators will take part in skill building programs including mentoring, co-mediation, case discussions, peer evaluations, video taped roleplays, and structures for self reflection. MPME participants will be noted in an online directory of Maryland ADR practitioners. Three pilot programs related to mediator quality were initiated in 2004: a performance-based mediator assessment project in the Circuit Court for Anne Arundel County, a mediator mentoring project, and a mediation strategies survey sent to mediators. These projects will conclude in 2005, and their results will inform the further development of the MPME.

Public Awareness

MACRO is committed to promoting the use of mediation and other forms of conflict resolution. In this regard, twenty-one different "Mediation: It's Your Solution" post-

ers have been developed. These posters will soon be made available to groups in Maryland and nationwide. Court, community, and government programs will be given the option of having posters produced with their own contact information at the bottom, in addition to MACRO's. Recently, MACRO, with the help of the Judiciary's video camera crew, interviewed passersby on the streets of Baltimore, Ellicott City, Silver Spring and Frederick. People were asked to describe what they think mediation is. A sev-

even minute tape has been made with some of these key interviews to illustrate citizens' current level of knowledge regarding mediation.

Evaluation

There is a self-assessment system for Court ADR programs as described in the July, 2004 issue of MACROscope in the article entitled, "Coming Soon to a Courthouse Near You: State-wide Court ADR Evaluation," by Leonard Howie. The system was developed collaboratively by court ADR program managers across the state. When fully operational, the system will enable program managers to scan their data into a web-based information repository. Using this information, MACRO will be able to provide evaluative reports on individual programs and on court-based ADR use statewide. The reports will help program managers to understand, expand, improve and capture the benefits to their work.

In addition to the three top priorities, MACRO created new goals in all of its target areas. To receive a copy of the five-year plan, call MACRO at 410-841-2260.



courtesy of krisphotos

Promotion of Restorative Justice

In spite of decreasing rates of crime victimization and reported crimes in our country, we still have more personal pain and community loss from criminal behavior than any other industrialized country in the world. Reports from the U.S. Dept. of Justice indicate only 42% of serious crime is reported to the police; only 20% of these reports results in the arrest, charging, and prosecution of criminals; only 16% of those prosecuted criminals are convicted; and only 68% of those convicted criminals are incarcerated.

This means that for every 100 criminals who commit a serious crime, only one may be convicted. (Complete citations for these reports are available from MCRC on request.)



courtesy of Charles Tracy

An alternative to the current criminal justice system was introduced 30 years ago as a vision of institutional reform in North America when the first victim offender mediation was conducted in Kitchener, Ontario. This new and emerging concept—restorative justice—focuses on healing the personal and community harm from crime while holding offenders directly accountable for their actions, rather than trying to punish them.

Restorative justice may be new to us, but it has been practiced by many indigenous cultures throughout the world for many centuries—such as Native Americans, First Nation aboriginals in Canada, and the Maoris in New Zealand. As a contemporary social movement it achieved a sustainable vitality in the mid-1990s, with more than 300 victim offender mediation (VOM) programs in 45 states in the country, and more than 700 in Europe and

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Focusing on Ethics, *cont. from p. 1*

The Ethics Committee, co-chaired by Arlene J.M. Grant and Roger Wolf, has put forward an action plan based on the view that ethical practice is linked closely to quality practice and should receive systematic attention in MPME members' basic and advanced training.

"I definitely felt energized to want to teach ethics to my colleagues in the field by the end of the class," said Steve Shapiro, one of the participants. "I am usually not someone who gets too excited about the subject, but the manner in which the course was taught made me realize that at almost every juncture of the mediation process, we are going to be faced with some ethical dilemma. What I realize now is that this type of training is exactly what the profession needs."

Thompson, an experienced mediation trainer, is a founding member of the Texas Mediation Trainers Roundtable and Texas Mediator Credentialing Association, and

ethics chair for the Association for Conflict Resolution Training Section. She currently is the coordinator of the ACR Trainers Resource Project, a website that will initially provide mediation ethics training resources for all interested educators.

"Mary Thompson is one of the very best trainers I've ever seen," said Dan Dozier, another participant. "Her tips and techniques were interesting. They were useful in that I saw some techniques to keep trainees awake and interested, and they were also fun. Plus the discussions among and between my Maryland colleagues was, as always, interesting and enlightening."

MACRO plans to hold similar trainings in 2005. Those interested may obtain further information about this program from Professor Roger Wolf by writing to rwolf@law.umaryland.edu or calling 410/706-3836.

Accountability, Healing, and Learning

New Directions for Community Conferencing in Maryland



courtesy of Lauren Abramson

A community conference is a highly participatory process for dealing with conflict, whereby a trained and neutral facilitator convenes a meeting for everyone affected by a conflict or crime to have a conversation about the conflict and how it can be resolved and prevented from happening again. When the conflict involves a crime, both victims and offenders and their respective supporters come together to resolve the case themselves. More than 500 community conferences have been conducted in Baltimore City, with more than 95% of them resulting in successful agreements. Most of these cases have involved juvenile offenses.

The Community Conferencing Center (CCC) in Baltimore currently provides community conferencing in a variety of sectors, and the process has been successful as

- 1 an alternative to court for misdemeanor and certain felony offenses,
- 2 an alternative to school suspension and arrest,
- 3 a collaborative way to resolve intractable neighborhood conflicts,
- 4 an effective way for ex-offenders to (re)connect with family and community members following incarceration, and
- 5 a collaborative way to address complex planning issues.

More recently, the CCC has conducted its first serious crimes conference. With support from MACRO, the CCC is conducting a pilot program to offer the community conferencing process to victims and incarcerated offenders of serious crimes such as murder—only this time it is obviously not used as an alternative to incarceration, but as an opportunity for participants to heal and to learn from the incident.

After gaining support for this project from the Maryland Department of Public Safety and Corrections Secretary Mary Ann Saar, as well as from Corrections Commissioner Frank Sizer, the first serious crimes conference was conducted in May 2004 at the Maryland Correctional Institution in Jessup. The incident was a murder that occurred 27 years ago. The offender is serving a life sentence, and requested an opportunity to talk with the victim's family. The victim's family was contacted through the State's Attorney's office, and after several weeks to think about the offer, they also decided to participate in the conference.

Eight people attended the conference. Two of the victim's daughters attended with their husbands. One daughter brought along a photograph of her father and kept it in her lap facing out so that the man responsible for her father's death could see him. The man responsible for the inci-

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At the Community Conferencing Center in Baltimore, offenders and victims sit down together to determine how to resolve conflicts.

photo by Sonja Kinser

Rachel's Notes on Nancy Hirshman, cont. from p. 2

because Duckett asked her to explain the new program to the judges. After she finished speaking, the judges, a group of “tough old coyotes,” told Warren he should “stick to prosecuting and leave the cases to us.” Six months later, the program was evaluated, and given high marks by the participants, the lawyers, and the judges. Quite a coup!

Today the program is called the Anne Arundel County State's Attorney's Office Mediation Center, and Nancy says that, except for the ever-growing caseload, the center has changed very little. With offices in Glen Burnie and Annapolis, over the past 21 years the program has diverted more than 9,000 criminal misdemeanor cases from court.

Nancy says that she has “perfected the art (not science) of screening cases.” She believes that screening is a “crucial” component of the center’s success. Ed Middlebrooks, the outgoing chair of the Anne Arundel County Council, who was Nancy's first assistant, says that the criminal misdemeanor cases handled by the center are “certainly emotional cases. Sometimes the mediation participants may sound “loud and ugly,” yet Nancy treats everyone with respect, and finds that people respond in kind. In her 21 years, she has only had to terminate five cases. Her settlement rate for these criminal misdemeanor cases is higher than 90 percent.

Nancy's current assistant and case manager, Jaclyn Dixon, aptly describes Nancy's “calm and reassuring demeanor,” as an excellent temperament for a mediator. Jaclyn also credits Nancy with teaching her “how to empower people to solve their own problems,” which is the core of much of the work we do. Nancy credits “being exposed to so many different people, lifestyles, beliefs and values—and learning not to be judgmental—as the “most enlightening lesson” of her life.

Nancy praises the ADR Commission for exposing her to many other mediation styles and methods of conflict resolution. She never had the “luxury” of getting “instant feedback” from a co-mediator, and has felt her mediation practices “validated” at conferences, and in other forums.

Despite her busy schedule, she is always generous with her time and talent. She has helped state's attorneys' offices in other jurisdictions create similar mediation programs, advancing the good work for which she is known and respected. Nancy has also been an active member of the Maryland Council for Dispute Resolution since its earliest days.

When asked about her plans, Nancy says she plans to “spend time with my grands and work on my tennis game.” I was very pleased to hear that she “does not plan to cut her ties” with the mediation community.

Anne Arundel County State's Attorney Frank Weatherbee calls Nancy “a terrific colleague who has provided invaluable services to my office and to the people of Anne Arundel County.” Nancy, eager to return the kindness she has received, said she feels very thankful to Weatherbee, Duckett, everyone in the State's Attorney's Office, and the Anne Arundel County judges.

Nancy Hirshman is a wonderful human being who should be very proud of her many accomplishments. Last year, we attended a celebration of the 20th Anniversary of the program Nancy created and has worked so hard to make successful. It was an impressive evening. Although I'm sure she knows that she has had an enormous impact on many lives, she carries this knowledge quietly, with a characteristic shy smile. Nancy brings to mind a statement made by columnist Ellen Goodman.

“I have never been especially impressed by the heroics of people who are convinced they are about to change the world. I am more awed by those who struggle to make one small difference after another.”

Thanks for everything, Nancy!

Bringing Mindfulness to the Table: Through the Mediator's Looking Glass

MACRO is offering a day-long interactive seminar for mediators interested in learning about mindfulness meditation and its skillful use in mediation. "Mindfulness" is a deliberate form of moment-to-moment attention that helps develop and improve self-awareness, understanding of others, concentration, and creativity.

This seminar, to be held in Annapolis on March 4, will provide mediators with an opportunity to learn from one another and from two extraordinary nationally-known mediators, teachers and authors: Len Riskin and Ken Cloke.

Len Riskin is a leader in the field of mindfulness meditation and in the field of dispute resolution. He has been teaching mindfulness meditation to lawyers, law students, and mediators since 1999. He is the Director of the Initiative on Mindfulness in Law and Dispute Resolution at the University of Missouri-Columbia School of Law, where he is also a professor of law. Len developed and recently revised a much used grid for analysing approaches to mediation.

Kenneth Cloke is Director of the Center for Dispute Resolution in Santa Monica, CA. He is an internationally highly respected mediator, arbitrator, consultant, and trainer, specializing in resolving complex multi-party conflicts, and organizational conflict resolution systems. He has written many books, including *Mediating Dangerously: The Frontiers of Conflict Resolution*.

Due to the intimate nature of its topic, the seminar will be limited to 40 participants. Mediators may apply through one of the four practitioner organizations in Maryland: the Maryland Chapter of ACR, the Maryland Council for Dispute Resolution, the ADR Section of the MSBA, or the Maryland Association of Community Mediation Centers. Mediators who are not involved in any of the practitioner groups may contact MACRO directly for an application at 410/841-2260.

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Maryland Mediators Convention



Jerri Thomas and Erricka Bridgeford



B. Kipling Williams, Joyce Mitchell, the Hon. Robert Heller

Restorative Justice, cont. from p. 10

other parts of the world. It became a national initiative in 1993 when the balanced and restorative justice approach was developed by the Office of Juvenile Justice and Delinquency Prevention. In 1997, Maryland joined the many states which have incorporated this philosophy into their juvenile justice systems.

When the Mediation and Conflict Resolution Center (MCRC) began to develop its vision and philosophy in 2002, it became clear that the principles of restorative justice were the essential foundation upon which our mediation and conflict resolution practices must be based—if we were really to meet the needs of the community we were created to serve. In 2002, MCRC began offering victim offender mediation for the first time in Maryland, with first-year funding from MACRO. We quickly discovered that the concept of restorative justice, and its practice through VOM, was not widely understood nor embraced by local justice officials.

After a couple years of educating the local community, we knew we needed to do more to expand knowledge about restorative justice throughout Maryland. We proposed to MACRO that MCRC conduct a series of workshops in

six regions of Maryland. MACRO provided us with a small grant and the workshops were held in September and October of this year. The general consensus was that the workshops were successful—participants agreed that they learned useful information about restorative justice and would like a follow-up activity.

We hope that it will be possible in the future for there to be a statewide conference that will include presentations by persons who are practicing restorative justice activities such as victim offender mediation, community conferencing, sentencing circles, healing circles, and reparative boards. We also believe it would be helpful to have a statewide informational network to connect those in Maryland who are concerned about restorative justice.

MCRC has recently received a grant from the Mackey Fund to develop a Restorative Justice Resource Center at Howard Community College. We are in the process of acquiring a collection of books and videos as the beginning of a resource that will serve the educational needs of everyone interested in learning more about restorative justice. For more information about MCRC and the diversity of alternative dispute resolution services it provides, log on to www.howardcc.edu/mcrc, email mcrc@howardcc.edu, or call 410/772-4620.

In Memory

Sarah Childs Grebe, who has been called the mother of family mediation in Maryland, died Dec. 2, 2004, of ALS (Amyotrophic Lateral Sclerosis). Sarah, a social worker and family therapist, received her mediation training in 1980 from O. J. Coogler, one of the main originators of divorce mediation. Sarah trained many hundreds of mediators in Maryland and around the country, and served as the first MICPEL mediation trainer. With Martin Kranitz and Cam Crockett, she wrote "Starting Your Own Mediation Practice; A Workbook." Sarah served on the board of the Academy of Family Mediators, was one of the first court appointed mediators in the Circuit Court for Montgomery County, and helped establish the Maryland Council for Dispute Resolution (MCDR). She will be missed by all who knew her. Thank you, Sarah.



courtesy of
Martin Kranitz

Community Conferencing, cont. from p. 11

dent expressed remorse for his actions to the victim's family. He and his aunts all shared how much the victim was a part of their lives, because whenever a significant family event occurred in their own lives, they were reminded of how the victim's family could no longer celebrate such events together. Many tears were shed. Many thoughts and feelings were shared—ranging from remorse to rage to wishes for reconciliation and inner peace.

By the end of the 90-minute meeting, everyone expressed that they felt that it went much better than they had anticipated.

Most remarkable about this serious crimes conference, in some respects, is the reminder that if there has been no opportunity for healing, then time does not necessarily heal all wounds.

The CCC plans to conduct other serious crimes conferences with the hope that it will be offered at several Maryland prisons. For further information, call 410-889-7400 or visit www.communityconferencing.org.



Dependency Mediation in CINA Cases, cont. from p. 7

\$65 per hour for a three-hour session by the court and have undergone basic training plus 40 hours of dependency mediation training. The session lasts just more than three hours and takes place in a nearby office suite that has been decorated with warm and calm colors, and comfortable, simple furniture.

During the session, the mother relates, for the first time, her grief over losing her relationship with her siblings when they were placed in the foster care system when she was a child, and her fear of this happening to her own children. The parties agree that the children will be found CINA based on neglect and that the great aunt will care for the children while the mother stabilizes. The father and mother will have liberal visitation with the children as long as the mother is compliant with her medication and the father is sober.

Both parents collaborated in developing the treatment plan and identifying services they believe they and

their children need. The children will receive therapy and wraparound services to help them with school and home issues. A full consent agreement is placed on the record that afternoon. That evening, fewer than 21 days after removal, the children are reunited and placed with their great aunt.

Long-term results will determine whether the effort is well spent—and whether the families have better outcomes. For now, we know that children face less uncertainty for a shorter time. Parents receive treatment and services more promptly. Most important, the focus is now on collaboratively determining what is in the best interest of the children who are the subject of these petitions, and their families, rather than the adversarial maneuvering that characterized these cases in the past.



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www.courts.state.md.us/macro



Seeking to build your mediation practice?

The recently upgraded statewide on-line searchable ADR directory for the public is part of a nonprofit website that receives over 22,000 visits per month. This listing is free of charge and contains entries in five categories: mediator, arbitrator, settlement conference facilitator, large group dispute resolution facilitator, and ADR trainer.

Visit www.mdmediate.org and enter your data! The ADR Directory is a collaborative effort by the Center for Dispute Resolution at the University of Maryland, Maryland Legal Assistance Network and MACRO.

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